

REMARKS

Claims 1-5, 6-20, 24 and 25 are pending in this application. By this Amendment, claims 1, 2 and 4 are amended, claims 21-23 are canceled without prejudice or disclaimer, and claims 24 and 25 are added. Support for the amendments to claims 1 and 2 and new claims 24-26 can be found at least in Figs. 8, 11 and 13-16 and the corresponding disclosure in the specification. Claim 4 is amended for form. No new matter is added.

Applicant appreciates the courtesies shown to Applicant's representatives by Examiners Mai and Rodriguez in the January 13, 2009 personal interview. Applicant's separate record of the substance of the interview is incorporated into the following remarks.

The Office Action rejects claims 1, 2, 13, 16 and 18-20 under 35 U.S.C. §102(b) over Lederer et al. (U.S. Patent No. 5,690,639); rejects claims 2-5, 7, 13, 15 and 16 under 35 U.S.C. §102(b) over Gambale (U.S. Patent No. 6,328,746); and rejects claims 2 and 7-17 under 35 U.S.C. §102(b) over Gervais et al. (U.S. Patent No. 7,160,109). The rejections are respectfully traversed.

None of the above-applied references teaches or renders obvious every claimed feature of independent claims 1 and 2. None of the above-applied references teaches or renders obvious "the implantable element having a head, a body and a groove positioned axially therebetween, the body configured to extend axially from the groove and into a body of a patient, and the hollow intermediate connecting part configured to be received by the groove of the implantable element and further configured to contact the groove of the implantable element at an edge of the hollow intermediate connecting part that is axially closest to the body of the implantable element," as recited in independent claims 1 and 2 (emphasis added).

The Office Action asserts that the slot 16 of Lederer corresponds to the claimed groove of previously presented claims 13 and 16, and that the sleeve 11 and pin 12

correspond to the claimed hollow intermediate connecting part and implantable element of independent claims 1 and 2 (see Office Action, page 3). However, as shown in Fig. 2 of Lederer, and as argued during the personal interview, the sleeve 11 does not contact the slot 16 at an edge of the sleeve that is axially closest to the pin 12. Rather, the slot 16 is located inside the sleeve when the tool assembly is assembled (see Fig. 2 of Lederer). Therefore, Lederer does not teach or render obvious "the hollow intermediate connecting part configured to be received by the groove of the implantable element and further configured to contact the groove of the implantable element at an edge of the hollow intermediate connecting part that is axially closest to the body of the implantable element," as recited in independent claims 1 and 2.

Further, the slot 16 of Lederer is located along an axial edge of the pin 12 (see Fig. 2 of Lederer). Therefore, Lederer does not teach or render obvious "the implantable element having a head, a body and a groove positioned axially therebetween," as recited in independent claims 1 and 2.

Gambale also does not teach or render obvious "the implantable element having a head, a body and a groove positioned axially therebetween, the body configured to extend axially from the groove and into a body of a patient, and the hollow intermediate connecting part configured to be received by the groove of the implantable element and further configured to contact the groove of the implantable element at an edge of the hollow intermediate connecting part that is axially closest to the body of the implantable element," as recited in independent claims 1 and 2 (emphasis added).

The Office Action asserts that the screw 17 and cartridge 100/annular lip 122 of Gambale correspond to the claimed implantable element and hollow intermediate connecting part, respectively, of independent claims 1 and 2 (see Office Action, page 4). However, as argued during the personal interview and as shown in Fig. 4 of Gambale, the cartridge

100/annular lip 122 does not contact any groove of the screw at an edge of the cartridge that is axially closest to the body of the screw. Rather, the far right edge (as shown in Fig. 4) of the annular lip 122 is the edge located closest to the body of the screw 17. As shown in Fig. 4 of Gambale, this part of the annular lip 122 does not contact the screw 17. Therefore, Gambale does not teach "the hollow intermediate connecting part configured to be received by the groove of the implantable element and further configured to contact the groove of the implantable element at an edge of the hollow intermediate connecting part that is axially closest to the body of the implantable element," as recited in independent claims 1 and 2.

Further, the screw 17 of Gambale does not contain any groove, much less a groove positioned between a body and a head of the screw 17 (see Figs. 3-6 of Gambale). Therefore, Gambale does not teach or render obvious "the implantable element having a head, a body and a groove positioned axially therebetween," as recited in independent claims 1 and 2.

Gervais also does not teach "the hollow intermediate connecting part configured to be received by the groove of the implantable element and further configured to contact the groove of the implantable element at an edge of the hollow intermediate connecting part that is axially closest to the body of the implantable element," as recited in independent claims 1 and 2 (emphasis added).

The Office Action asserts that the fixture mount 14, drive extension 20 and retaining screw 16 of Gervais correspond to the claimed hollow intermediate connecting part, tool and implantable element of independent claims 1 and 2 (see Office Action, page 5). However, as argued during the personal interview, the fixture mount 14 contacts the retaining screw at a location well before the axial edge of the fixture mount 14 (see Fig. 1 of Gervais). In other words, the fixture mount 14 of Gervais includes coronal ends 28 that extend beyond the area at which the fixture mount 14 connects to the retaining screw 16 and toward the body of the implant 22 (see Fig. 1 of Gervais). Therefore, Gervais does not teach or render obvious "the

hollow intermediate connecting part configured to be received by the groove of the implantable element and further configured to contact the groove of the implantable element at an edge of the hollow intermediate connecting part that is axially closest to the body of the implantable element," as recited in independent claims 1 and 2 (emphasis added).

Gervais also does not teach "an end of the tool in direct contact with the implantable element," as recited in independent claim 1; and "reversible fixing of the tool to and in direct contact with the implantable element," as recited in independent claim 2 (emphasis added).

As argued during the personal interview, the drive extension 20 of Gervais is separated from the retaining screw 17, and thus is not in direct contact therewith (see Fig. 1 of Gervais). Therefore, Gervais does not teach or render obvious the features of independent claims 1 and 2.

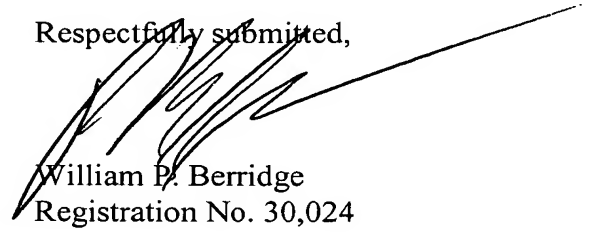
Further, as argued during the personal interview, none of the references teaches or renders obvious "wherein a radial width is smaller than a radial width of the implantable element," as recited in new claims 24 and 25. In each of the applied references, any feature that could reasonably correspond to a head of the implantable element is larger than the body thereof. Therefore, none of the applied references teach or render obvious the features of claims 24 and 25.

Therefore, for at least these reasons, independent claims 1 and 2, and claims 3-5, 7-20, 24 and 25 depending therefrom, are allowable over the applied references. Applicant respectfully requests withdrawal of the rejections.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



William P. Berridge
Registration No. 30,024

Patrick T. Muffo
Registration No. 60,342

WPB:PTM/mkg

Date: January 27, 2009

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

**DEPOSIT ACCOUNT USE
AUTHORIZATION**

Please grant any extension
necessary for entry;
Charge any fee due to our
Deposit Account No. 15-0461